THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.27368 OF 2005

Dt.23.12.2005

Between:

M.Sasi Rekha Lakshmi … Petitioner

And

The Assistant Commissioner, Endowments

Department, Eluru, West Godavari District

And another. … Respondents

ORDER:

Petitioner questions the action of the 2nd respondent in holding public auction on 23.12.2005 for leasing out the land to an extent of Ac.6.62 cents in R.S.No.540 of Gunupudi Village, Bhimavaram Mandal, West Godavari District, without evicting the petitioner by following the due process of law as illegal and arbitrary.

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Endowments.

The petitioner is the cultivating tenant to an extent of Ac.6.62 cents in R.S.No.540 of Gunupudi Village belonging to the 2nd respondent temple. By virtue of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (hereinafter referred to as 'the Act') any lease of agricultural land belonging to or

given or endowed for the purpose of any institution or endowment subsisting on the date of commencement of this Act shall notwithstanding anything in any other law for the time being in force held by a person who is not a landless poor person stands cancelled. But in so far as small farmers are concerned certain concessions are given to purchase the endowment property. Admittedly, the petitioner is not a small farmer and accordingly the request of the petitioner to treat her as cultivating tenant was rejected by the first respondent on 29.3.2004. Aggrieved by the same, the petitioner filed an appeal before the Regional Joint Commissioner, Kakinada. It is stated that when the 2nd respondent issued notice dated 17.5.2004, the petitioner filed W.P.No.9282 of 2004 and the same was disposed of by this Court directing the respondents not to dispossess the petitioner pending disposal of the appeal. The said appeal was ultimately dismissed. Thereafter, the 2nd respondent issued notice dated 22.9.2004 stating that the petitioner is not a small farmer, as held by the first respondent, and therefore possession of the said land has to be taken back in accordance with Section 84 of the Act. However, it is stated in the notice that if the petitioner agrees to pay the prevailing rate of maktha it will be given in favour of the petitioner. It is stated that the petitioner has already paid the said amount as suggested and continued as tenant. While so, the 2nd respondent issued notification in respect of the property in question admeasuring Ac.6.62 in Sy.No.540 on 11.12.2005 and the auction is schedule to be held on today i.e., 23.12.2005 at 10.00 a.m.

I am of the opinion that when the lease granted in favour of the petitioner automatically stands cancelled under Section 82(1) of the Act and the petitioner was also declared that she is not a small farmer, the petitioner has not accrued any vested right or interest to continue the lease. Therefore, I am of the opinion that there is no infirmity in calling to participate in the auction for the leasehold cultivating rights in respect of the land in question.

The writ petition is accordingly dismissed. No costs.

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(V.ESWARAIAH, J.)

23.12.2005

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